

Docket No. 2024729-7014622001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark Parker Willis

Filing Date: 08/03/1998

Serial No.: 09/128,304

Title: A DYNAMICALLY ALTERABLE THREE-DIMENSIONAL GRAPHICAL MODEL OF A BODY REGION

Assignee: Cardiac Pathways

Examiner: Eleni M. Mantis Mercader

Group Art Unit: 3737

**PETITION UNDER 37 C.F.R. §1.181 REQUESTING WITHDRAWAL OF ABANDONMENT
AND REINSTATEMENT OF APPLICATION**

M/S: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This petition under 37 CFR §1.181 is to request withdrawal of the holding of abandonment, and reinstatement of the above-referenced patent application.

According to the Notice of Abandonment mailed July 2, 2003, the above-identified application was abandoned for alleged failure to file a timely reply to the Office Action mailed November 4, 2002. However, as evidenced herein, a reply was timely mailed and received by the United States Patent and Trademark Office, and this abandonment is in error. Because this error is believed to be entirely that of the United States Patent and Trademark Office, this petition to revive is brought under 37 C.F.R. §1.181, and no fee is believed due.

Submitted herewith is the declaration of David T. Burse in support of the requested withdrawal of abandonment and reinstatement of the application, as well as documentation, attached as Exhibits A and B.

Favorable action on this petition is respectfully requested.

Although no fee is believed to be required, the Commissioner is hereby authorized to charge any fee which may be required, or credit any overpayment to Deposit Account No. 50-2518, Atty. Docket No. 2024729-7014622001. *A duplicate copy of this sheet is enclosed.*

DATED: August 20, 2003

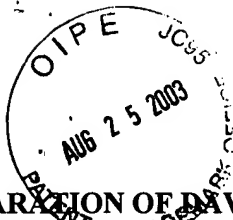
Respectfully submitted,
BINGHAM McCUTCHEN LLP

By: DT Burse

David T. Burse
Reg. No. 37,104

BINGHAM McCUTCHEN, LLP
Three Embarcadero Center
San Francisco, California 94111
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2024729-7014622001

**DECLARATION OF DAVID T. BURSE IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.181
REQUESTING WITHDRAWAL OF ABANDONMENT AND REINSTATEMENT OF
APPLICATION**

1. I, David T. Burse, am the attorney-of-record for U.S. Patent Application Serial No. 09/128,304. I am a partner with the East Palo Alto Office of the law firm of Bingham McCutchen LLP.
2. On December 18, 2002, a complete Response to the Office Action mailed November 4, 2002, for the referenced-application was mailed to the United States Patent and Trademark Office. According to the returned postcard, the Response was received-stamped by the United States Patent and Trademark Office on December 30, 2002. A true and correct copy of the received-stamped postcard, as well as the transmittal (including certificate of mailing under 37 C.F.R. §1.81a) and Response are attached hereto as Exhibit A. A copy of the Notice of Abandonment mailed July 2, 2003 is attached hereto as Exhibit B. It is apparent that Applicants' timely-filed response to the Office Action Mailed November 4, 2002, reached the United States Patent and Trademark Office well before the 3-month deadline, but was subsequently lost or misplaced after its arrival.
3. All statements made of my knowledge are true and that all statements made on information an/or belief are believed to be true; and, further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

Respectfully submitted,
BINGHAM MCCUTCHEN LLP

By: David T. Burse
David T. Burse
Reg. No. 37,104

Date: August 20, 2003

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24729-7096
271/054

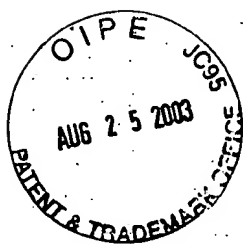
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1. RESPONSE
2. RESPONSE TRANSMITTAL
- 3.
- 4.
- 5.
- 6.

FOR: A DYNAMICALLY ALTERABLE THREE-DIMENSIONAL
GRAPHICAL MODEL OF A BODY REGION

INVENTOR: N. PARKER WILLIS
SERIAL NO.: 09/128,304
FILING DATE: 06/06/2001
FEE:
DATE DUE:
DATE MAILED: December 18, 2002
DOCKET NO.: 24729-7096)271/054)
ASSIGNEE: SCIMED
ATT/ASS: BOLAN/BARRETT





271/054

EPT

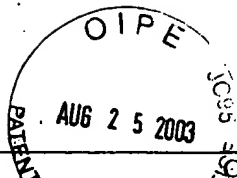


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FOR: A DYNAMICALLY ALTERABLE THREE-DIMENSIONAL
GRAPHICAL MODEL OF A BODY REGION

INVENTOR: N. PARKER WILLIS
SERIAL NO.: 09/128,304
FILING DATE: 06/06/2001
FEE:
DATE DUE:
DATE MAILED: December 18, 2002
DOCKET NO.: 24729-7096 (271/054)
ASSIGNEE: SCIMED
ATT/ASS: BOLAN/BARRETT



Docket No. 24729-7096

Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

[X] Pursuant to 37 C.F.R. § 1.8, I hereby certify that this paper and all enclosures are being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to the Assistant Commissioner for Patents, Washington D.C. 20231.

[] Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Examiner _____ at Facsimile No. _____ at _____ a.m./p.m.

Dated: December 18, 2002

Name of Person Certifying: _____

Printed Name: LAER BARRETT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

N. Parker Willis et al.

Serial No.: 09/128,304

Filed: June 6, 2001

For: **A DYNAMICALLY ALTERABLE
THREE-DIMENSIONAL
GRAPHICAL MODEL OF A
BODY REGION**

)
) **Group Art Unit: 3737**

)
) **Examiner: Eleni M. Mantis Mercadier**

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TRANSMITTAL

Sir:

Enclosed herewith for filing are the following:

- ☒ A Response/Amendment [2] page(s)
- ☐ A Response to Restriction Requirement under 35 USC § 121 [] page(s)
- ☐ An Amendment Under 37 CFR § 1.111 [] page(s)
- ☐ An Amendment Under 37 CFR § 1.116 [] page(s)
- ☐ Preliminary Amendment [] page(s)

Also included are:

- ☐ A Petition for Extension of Time [] months [] page(s)
- ☐ Supplemental Information Disclosure Statement
[] page(s) of PTO-1449 [] copies of IDS citations
- ☐ Applicant(s) claim Small Entity Status under 37 CFR § 1.27.

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☐ Other: _____

☒ Return Postcard

☒ Conditional Petition for Extension of Time: An extension of time is requested to provide for timely filing if an extension of time is still required after all papers filed with this communication have been considered.

☐ A check in the amount of \$ _____ to cover the above fees is enclosed.

☐ Please charge Deposit Account No. _____, Docket No. _____, in the amount of \$ _____ to cover the above-fees. *A duplicate copy of this sheet is enclosed.*

☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 502518, Docket No. 24729-7096. *A duplicate copy of this sheet is enclosed.*

DATE: December 18, 2002

Respectfully submitted,

By: _____

Michael J. Bolan

Registration No.: 42,339

Bingham McCutchen LLP
Three Embarcadero Center, 18th Floor
San Francisco, California 94111
Telephone: (415) 393-2000
Telefax: (415) 393-2286



PATENT
24729-7096
(271/054)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

N. Parker Willis et al.

Serial No.: 09/128,304

Filed: June 6, 2001

For: **A DYNAMICALLY ALTERABLE
THREE-DIMENSIONAL
GRAPHICAL MODEL OF A
BODY REGION**

)
) **Group Art Unit: 3737**

)
) **Examiner: Eleni M. Mantis Mercadier**

RESPONSE

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This letter is response to the Office Action mailed November 4, 2002. Claims 1-60 remain pending and have not been amended. Based on the following remarks, reconsideration and allowance of this application is respectfully requested.

Claims 1-60 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,662,108 to Budd et al. ("Budd"). Without acquiescence that Budd is a §102(e) prior art reference, and without prejudice to antedate this reference should it become necessary, Applicants make the following comments. Applicants respectfully traverse the rejections of claims 1-60, since Budd does not disclose each and every element required by these claims.

Specifically, all of the independent claims require the three-dimensional model to be deformed. In contrast, Budd merely discloses that a model of the heart chamber wall can be

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generated. Applicants cannot find any disclosure in Budd related to the deformation of a three-dimensional model, as required by the claims. If the Examiner believes otherwise, the Examiner is requested to specifically point out such a disclosure in Budd. The Examiner is further requested to point out the many other elements that are required by the claims, including the dependent claims, that do not appear to be disclosed in Budd.

Based on the foregoing, all claims are believed to be allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (213) 680-6400.

Respectfully submitted,

Bingham McCutchen LLP

Dated: 12/18/02

By: 
Michael J. Bolan
Reg. No. 42,339

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, California 94111



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/128,304	08/03/1998	N. PARKER WILLIS	CRDP-2700	2536

23639 7590 07/02/2003

BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO, SUITE 1800
SAN FRANCISCO, CA 94111-4067

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Bingham McCutchen
IP Docket Dept.

EXAMINER

MANTIS MERCADER, ELENI M

ART UNIT

PAPER NUMBER

3737

DATE MAILED: 07/02/2003

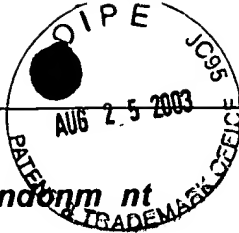


Please find below and/or attached an Office communication concerning this application or proceeding.

Docket: 271/05405
Action: REVISION TO REVISE
Date Due: 9-2-03 (MCP)

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Notice of Abandonment

Application No.

09/128,304

Examiner

Eleni Mantis Mercader

Applicant(s)

WILLIS ET AL.

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 November 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

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ELENI MANTIS MERCADER
PATENT EXAMINER
ART UNIT 3737

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.